

1-1 By: Driver (Senate Sponsor - Williams) H.B. No. 1589  
1-2 (In the Senate - Received from the House May 2, 2005;  
1-3 May 3, 2005, read first time and referred to Committee on Criminal  
1-4 Justice; May 20, 2005, reported favorably by the following vote:  
1-5 Yeas 4, Nays 0; May 20, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the administration of polygraph examinations to certain  
1-9 applicants for positions in the Department of Public Safety.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 411.007(c), Government Code, is amended  
1-12 to read as follows:

1-13 (c) An applicant for a position in the department must be a  
1-14 United States citizen. An applicant may not be questioned  
1-15 regarding the applicant's political affiliation or religious faith  
1-16 or beliefs. The department may not prohibit an officer or employee  
1-17 of the department, while off duty and out of uniform, from placing a  
1-18 bumper sticker endorsing political activities or a candidate for  
1-19 political office on a personal vehicle, placing a campaign sign in  
1-20 the person's private yard, making a political contribution, or  
1-21 wearing a badge endorsing political activities or a candidate. An  
1-22 officer commissioned by the department may not be suspended,  
1-23 terminated, or subjected to any form of discrimination by the  
1-24 department because of the refusal of the officer to take a polygraph  
1-25 examination. Section 411.0074 does not authorize the department to  
1-26 require an officer commissioned by the department to take a  
1-27 polygraph examination.

1-28 SECTION 2. Subchapter A, Chapter 411, Government Code, is  
1-29 amended by adding Section 411.0074 to read as follows:

1-30 Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN  
1-31 APPLICANTS. (a) This section does not apply to:

1-32 (1) an applicant who is currently a peace officer of  
1-33 the department commissioned by the department; or

1-34 (2) an applicant for a police communications operator  
1-35 position who is currently employed by the department in another  
1-36 police communications operator position.

1-37 (b) Before commissioning an applicant as a peace officer or  
1-38 employing an applicant for a police communications operator  
1-39 position, the department shall require the applicant to submit to  
1-40 the administration of a polygraph examination in accordance with  
1-41 rules adopted under Subsection (e).

1-42 (c) The polygraph examination required by this section may  
1-43 only be administered by a polygraph examiner licensed under Chapter  
1-44 1703, Occupations Code, who:

1-45 (1) is a peace officer commissioned by the department;  
1-46 or

1-47 (2) has a minimum of two years of experience  
1-48 conducting preemployment polygraph examinations for a law  
1-49 enforcement agency.

1-50 (d) The department and the polygraph examiner shall  
1-51 maintain the confidentiality of the results of a polygraph  
1-52 examination administered under this section, except that:

1-53 (1) the department and the polygraph examiner may  
1-54 disclose the results in accordance with Section 1703.306,  
1-55 Occupations Code; and

1-56 (2) notwithstanding Section 1703.306, Occupations  
1-57 Code, the department may disclose any admission of criminal conduct  
1-58 made during the course of an examination to another appropriate  
1-59 governmental entity.

1-60 (e) The department shall adopt reasonable rules to specify  
1-61 the point in the hiring process at which the department shall  
1-62 require a polygraph examination to be administered under this  
1-63 section and the manner in which the examination shall be  
1-64 administered. Rules relating to the administration of a polygraph

2-1 examination shall be adopted in accordance with the guidelines  
2-2 published by the American Polygraph Association or the American  
2-3 Association of Police Polygraphists.

2-4 (f) The department shall use the results of a polygraph  
2-5 examination under this section as a factor in determining whether  
2-6 to commission a peace officer or employ an applicant for the  
2-7 position of police communications operator.

2-8 SECTION 3. Section 411.0074, Government Code, as added by  
2-9 this Act, applies only to an applicant who submits an application  
2-10 for a position in the Department of Public Safety of the State of  
2-11 Texas on or after the effective date of this Act.

2-12 SECTION 4. This Act takes effect immediately if it receives  
2-13 a vote of two-thirds of all the members elected to each house, as  
2-14 provided by Section 39, Article III, Texas Constitution. If this  
2-15 Act does not receive the vote necessary for immediate effect, this  
2-16 Act takes effect September 1, 2005.

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